



DOCKET FILE COPY ORIGINAL

**Public Employees for Environmental Responsibility**

2001 S Street, NW • Suite 570 • Washington, D.C. 20009 • 202-265-PEER(7337) • fax: 202-265-4192  
e-mail: info@peer.org • website: http://www.peer.org

October 9, 2000

**VIA FIRST CLASS MAIL**

Magalie Roman Salas, Secretary  
Federal Communications Commission  
Portals II  
445 12<sup>th</sup> Street, SW  
Suite TW-A325  
Washington, D.C. 20554

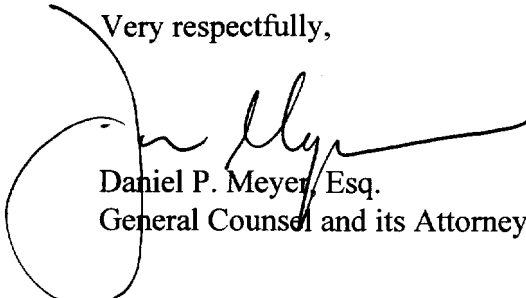
Re: Proceeding No. RM-9913, *FCC Accountability and Responsibility for Environmental Transgressions, and Petition for Rulemaking Regarding the NEPA, NHPA, and Part 1, Subpart I of the Commission's Rules*

Dear Ms. Salas,

Enclosed for filing in the above referenced docket are five (5) duplicates of PEER's recent civil complaint letters to Chairman Kennard regarding alleged environmental violations at Sunny Isles, Florida and Cutler, Maine. Please insert this documentation into Docket No. RM-9913 as further empirical evidence justifying PEER's *Petition*. See Report No. 2426, Consumer Information Bureau, Reference Information Center, *Petition for Rulemaking - Filed* (RM No. 9913)(July 14, 2000).

The originals of both letters have been mailed directly to the Office of the Chairman. Should you have any questions, please contact the undersigned at (202) 265.7337.

Very respectfully,

  
Daniel P. Meyer, Esq.  
General Counsel and its Attorney

Enclosure  
Executed in duplicate.

No. of Copies rec'd 074  
List ABCDE





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October 9, 2000

The Honorable William E. Kennard  
Chairman, Federal Communications Commission  
Office of the Chairman, Eighth Floor  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

DUPLICATE

Mr. Gregory L. Rohde  
Assistant Secretary of Commerce  
Administrator, NTIA  
U.S. Department of Commerce  
1401 Constitution Avenue, N.W.  
Washington, D.C. 20230

**BY FIRST CLASS POST**

**Civil Complaint Letter:**      *Violation of federal environmental law and regulations  
Cutler, Maine (44.690559 N.; 67.217855 W.)*

Dear Chairman Kennard and Assistant Secretary Rohde:

Public Employees for Environmental Responsibility ("PEER") has reasonable cause to believe that environmental conditions at the federal wireless communications site at Cutler, Maine, may have placed the United States Government in violation of the National Environmental Policy Act of 1969 ("NEPA"). Given that Maine's Department of Environmental Protection ("Maine DEP") has intervened to regulate this federal site, the next logical question to ask is what environmental assessment and impact evaluations have your agencies conducted to ensure your compliance with NEPA? See Lee Burnett, *Navy won't give hearing to Cutler whistleblower*, MAINE TIMES (Oct. 5, 2000) at 10 [Attached].

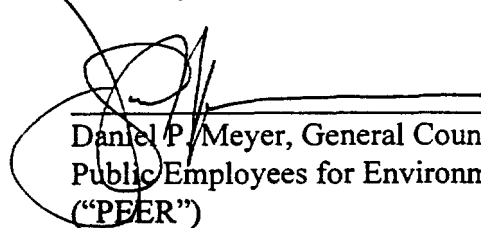
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As Maine PEER members continue to monitor your agency's activities where the violations are occurring, PEER requests a review of all government wireless authorizations approved in conjunction with the Cutler, Maine site to ensure Environmental Assessments ("EA") were conducted prior to approving authorization. Failure of your agency to review this matter in its entirety prior to taking a major Federal action may constitute a violation of the National Environmental Policy Act of 1969 ("NEPA").

PEER invites both of you to clarify NTIA's and the FCC's environmental compliance policy and correct any malfeasance connected with spectrum allocations to the United States Navy. When you have received this letter, please have the appropriate Commission/NTIA staff member give me a call to discuss a remedy for the Cutler, Maine situation. I can be reached at: (202) 265.7337.

Cordially,



Daniel P. Meyer, General Counsel  
Public Employees for Environmental Responsibility  
("PEER")  
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District of Columbia Bar No. 455369

Encl: Attachment

Magalie Roman Salas, Secretary (FCC)  
Federal Communications Commission  
Portals II  
445 12<sup>th</sup> Street, SW — Suite TW-A325  
Washington, D.C. 20554  
(for filing in FCC Dkt. RM-9913).

# Navy won't give hearing to Cutler whistleblower

By LEE BURNETT  
Staff Writer

A watchdog agency in Washington has dismissed a whistleblower's complaint that he was punished for criticizing the Navy's cleanup of peeling paint from a huge antenna farm in the Washington County town of Cutler.

Navy environmental compliance officer Normand Laberge had complained that his position was subordinated after he made persistent complaints about the diligence of efforts to contain lead and PCBs from the project. Laberge alleged the Navy failed to promptly notify environmental authorities and failed to promptly assess environmental harm. In response, Laberge said the Navy cut him out of the management loop and subordinated his position under the public works department, whose personnel Laberge had criticized.

But the U.S. Office of Special Counsel concluded that Laberge's charges are not serious enough to merit its attention.

"...There was not a substantial likelihood that the information constituted a violation of law, rule or regulation, a gross waste of funds, gross mismanagement or an abuse of authority,"

according to an Aug. 4 letter from the Leonard M. Dribinsky, associate special counsel. "It was not our intent to trivialize your efforts. Nevertheless, our office continues to lack sufficient information to refer your allegations to the head of the agency."

The Naval Computer and Telecommunications Station is an other-worldly complex of 26 giant towers rising from the most undeveloped shoreline in Maine. The tallest tower is 980 feet. From here, the Navy beams very-low frequency radio waves to communicate with submarines in the North Atlantic. The Navy says the facility is still essential to its mission in spite of the end of the Cold War.

But paint has been peeling for years, and the cleanup has proved unexpectedly controversial for the Navy. The project has already been beset by delay, cost overruns and the death of a worker. In addition, the Environmental Protection Agency criticized the Navy for not involving citizens in oversight of the project. But the Navy does not need a permit to clean up what is an ongoing hazard and a spokesman expressed consternation at continued public inquiry.

"How much interest is there in these dumb towers?" asked Robert Morro, a

Navy spokesman. "Must be a slow news day."

Morro said the eventual cleanup cost of \$15 million might be nearly twice the original contract of \$8.9 million. He said the project will be spread out over several years and he termed it "probable" that the Navy would provide necessary funding. "This is the number one priority" of three similar sites, he said.

Morro declined to comment substantively on Laberge's complaints. Laberge also declined to comment. But *Maine Times* has obtained copies of Laberge's written correspondence.

In a previous interview, Morro said the Navy first learned of PCB contamination in the fall of 1997, but Laberge's correspondence shows the Navy learned of it a full year earlier. State and federal authorities were not notified of the PCB contamination until the spring of 1998. Laberge said this was an unjustified delay that allowed the Navy to escape regulatory scrutiny. The Office of Special Counsel concluded the delay was warranted while the Navy continued to evaluate the extent of contamination.

Soil tests in the immediate vicinity of the towers eventually showed PCB concentrations 90 times greater than

safe levels and lead concentrations 520 times higher than safe levels.

"In my opinion, I offered consistent and correct advice that was not followed for reasons that do not seem to make sense," Laberge wrote in a request for reconsideration of dismissal. "I received a letter of reprimand and was deprived from completing my work while having to work in a hostile environment that continues to follow a pattern of retaliation."

Stripping the paint involves blasting high-pressure jets of water. Initially, only water sprayed below 200 feet was captured, filtered and recycled, with the rest falling to the ground. The Navy has since improved its containment to capture water sprayed at all but the highest points of the towers. Environmental activists have derided the process, saying the aerosol action vaporizes tiny paint chips and allows wind currents to spread contamination far and wide. They have pushed the Navy to scrape the paint mechanically, but the Navy says the cost is prohibitive. Maine's DEP has required the Navy to monitor contamination in the air at nine locations around the site, including a local elementary school.

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